



CITY OF DANBURY

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ZONING BOARD OF APPEALS
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ZONING BOARD OF APPEALS MINUTES

February 11, 2021

7:00 p.m.

ROLL CALL:

Acting Chairman Rodney Moore called this web-based meeting to order at 7:10 p.m. after technical difficulties were corrected. Present were Joseph Hanna, Juan Rivas, Michael Sibbitt, and alternate Peter DeLucia, whom Mr. Moore seated as a full member in the absence of Mr. Jowdy. Also present on the web-based meeting were Sean Hearty, Zoning Enforcement Officer and Mary Larkin, Secretary. Mr. Moore gave an explanation of the proceedings and read the legal notice.

ACCEPTANCE OF MINUTES: January 14, 2021

Motion to accept the minutes of January 14, 2021 was made by Juan Rivas; seconded by Peter DeLucia. No corrections or comments. Motion with all in favor: Messrs. DeLucia, Moore, Hanna, Rivas, and Sibbitt.

The next regular meeting is scheduled for **February 25, 2021**

Motion to hear Application Nos. 20-34, 21-02, and 21-03 was made by Peter DeLucia; seconded by Juan Rivas. Motion passed with all in favor: Messrs. DeLucia, Moore, Hanna, Rivas, and Sibbitt.

PUBLIC HEARINGS:

#20-34: 1 Padanaram Road, Interstate Signcrafters, agent for Wells Fargo, (H11258), CL-10 Zone

Sec. 8.E.3.a.(3) Allow freestanding sign height from 20' to 25' and allow proposed sign to be placed 135' from existing shopping center pole sign.

At the time this application was called, representation was not present. The matter was temporarily passed until later this evening. Ultimately, no one joined the meeting to represent the

applicant, and Peter DeLucia made a motion to table the matter until the next meeting, scheduled for February 25, 2021; Juan Rivas seconded. Motion passed with all in favor: Messrs. DeLucia, Moore, Hanna, Rivas, and Sibbitt.

#21-02: Bedard, Douglas, 7 Shady Knolls, (J04014), RA-20 Zone, Sec. 4.A.3 Reduce minimum front yard setback from 30' to 0.3' to roof overhang; reduce minimum side yard from 15' to 1.0' to roof overhang; reduce minimum rear yard from 35' to 25.0' to roof overhang; increase building coverage from 20% to 46.6%. Sec. 9.C.2(b) Allow pre-existing, non-conforming structure to be extended/expanded.

Neil Marcus, Esq., Cohen & Wolf, appeared on behalf of the applicant, Douglas Bedard. Mr. Bedard was also present on the ZOOM call. Mr. Marcus described the property as a 4,032 sq. ft. parcel in a 20,000 sq. ft. zone upon which an 800 sq. ft. summer cottage sits, which is more non-conforming than the 2,000 sq.ft. proposed home. He further described the neighborhood as mostly non-conforming, and the two buildings currently there as “functionally obsolete,” and that is the hardship.

On a shared screen, Mr. Marcus indicated the 440 contour line, which is the deeded lot from the shores of Lake Candlewood that establishes the northerly property line. Mr. Marcus pointed out that is one of the problems. There are stone walls in the back yard that lead to the water of the lake, giving an appearance that the lot is larger. For purposes of this application, the variance is based on the deeded title.

Mr. Marcus further explained that if the variance is approved, a benefit will be that the homeowner will be installing a code-compliant septic system, a small system for a two-bedroom house. The footprint of the structure will be moved away from Lake Candlewood, creating an 11' shift upland from the lake. Mr. Marcus discussed the existing garage, which has a substantial stone foundation and is not a building easily moved. It encroaches onto the Northwest Passway by approximately 2'. The garage will remain a detached garage in its current location.

Regarding the title to the Northwest Passway, Mr. Marcus explained it does not serve anyone's property other than Mr. Bedard's. Mr. Bedard has maintained it this as part of his property and his predecessor did as well. Mr. Marcus indicated there is a good possibility to gain title by adverse possession would be successful. Even though it is a lot of legal work and some surveying, Neil Marcus will suggest Mr. Bedard pursue that although it is not an inexpensive action. Mr. Marcus indicated at the moment they are respecting the fact that they have an encroachment over the deeded property line so the two structures will remain separate.

Adjoining neighbors sent emails in support of the application to the applicant. The emails were part of the application package.

Mr. Moore asked about the use of the Northwest Passway. Mr. Bedard said the actual passway is to the west of the garage. At some point in the 60's the passway was paved and is basically a dead-end. Mr. Marcus elaborated, stating the Northwest Passway is really just the parking area in front of Mr. Bedard's garage. Mr. Moore acknowledged the non-conforming property would be less non-conforming with the proposed improvements. He is concerned about the encroachment as far as the title goes. Mr.

Moore asked several questions: Will the garage would continue to be detached and exist as a garage? Will the home be a single story or two stories, and what is the approximate measurement of the footprint? Mr. Bedard answered two stories based on building code with the footprint will be close to 1,000 sq. ft. Mr. Moore said these variances are extreme and the Commission's purpose is to grant relief of zoning regulations when appropriate, given the hardships, and grant reasonable use and make properties less non-conforming. He mentioned the two corners that are very close to the property lines and 46% coverage is aggressive and suggested restating the hardship.

Commissioner Juan Rivas questioned the sewage disposal system plan that was submitted. He acknowledged that it was preliminary and asked if it is bound to change and would like a confirmed location of leaching fields. Mr. Rivas commented that the proposal is for a four-bedroom leaching system and asked if there is a reason for a four-bedroom leaching field? Mr. Bedard was told it was for a two bedroom. Mr. Rivas guided him to the plan. Mr. Marcus thinks it is a typographical error. Mr. Rivas asked if tanks and fields would be close to the dotted line on the plan. Mr. Bedard answered it does not go into the 440 line, which is part of the hardship because it cannot go near the 440 line. Mr. Rivas asked Attorney Marcus if this error could be corrected, and Mr. Marcus suggested adding it as a condition that it can be only a two bedroom, and also indicated they would get it corrected.

Joseph Hanna questioned the size of the proposed house and wants to see a detailed plan. He described it as overkill –too much of an addition on too small a lot. He asked if garage can be moved and if the house could be smaller. Mr. Marcus said it was too difficult to move the foundation of the garage. Discussion continued about the size of the house and the encroachment in the passway and possible renovations. Mr. Marcus said that a 2,000 sq.ft. house is still a modest house; Joseph Hanna said it was still too much for the property. Mr. Bedard said that the current house is two stories but really just one and a half because it is built into the land. Mr. Bedard said it will be only two bedrooms. Mr. Marcus asked Mr. Bedard how much land is between the 440 and the lake. He responded about 4,000 sq.ft. Mr. Marcus stated that the variance is based on the 440 line, not the entire property. More discussion ensued about the size of the rooms and possibly reworking the numbers. Mr. Hanna is concerned with the sides. Mr. Marcus explained there is an open area that will not be developed, which creates an 11' buffer. Mr. Marcus offered to provide an actual floor plan for the next meeting. Mr. Rivas asked if obtaining the title through the courts would be beneficial. Mr. Marcus indicated he just finished the very same process in another town, and it took over a year, and that was uncontested.

Mr. Moore is not convinced that the hardship rises to the level of this significant structure. There must be a way to reduce the setbacks, dropping down the coverage. He also mentioned that the adjacent land – although not their property – is not a strong case. Request is too much for the lot. Commissioner Michael Sibbitt had a problem with the garage and suggested tearing it down. Mr. Bedard thought about it but had been advised to leave it to get through zoning; however, he has entertained re-siding it and making it look better.

Mr. Moore said the goal is to grant reasonable use – reasonable is something smaller than what has been proposed; Michael Sibbitt agreed, as did Peter DeLucia. Mr. DeLucia did like the fact that the building would be farther from the lake, but thought it still aggressive.

No other comments in favor or opposed. Mr. Moore read for the record two email exchanges from Allen Hindin and Maxine Driscoll that were in favor of the application.

Mr. Marcus asked if the public hearing could be continued 30 days to allow them to address the comments from the Commissioners.

Motion to continue the public hearing until March 11, 2021 was made by Juan Rivas; seconded by Joseph Hanna. Motion passed with all in favor: Messrs. DeLucia, Moore, Hanna, Rivas, and Sibbitt.

#21-03: Leasure, Michele and Grubb, Brian, 189 Long Ridge Road, (J25001), RA-80 Zone, Sec. 4.A.3
Reduce minimum side yard setback from 40' to 31.5'

Kevin Desharnais, of KGD Designs, Inc., appeared on behalf of the applicant. Mr. Desharnais explained the original house was built very close to the road. Many years ago they obtained a variance to reduce the front yard setback to 8.8'. Today's request is to accommodate the addition of a sunroom at the rear of the house, in a location that would not force an entire first floor renovation. The hardship is to preserve the existing structure of the home and not disturb the existing retaining walls. No questions or comments from the Board nor others.

Motion to close Application No. 21-03 was made by Peter DeLucia; seconded by Joseph Hanna. Motion passed with all in favor: Messrs. DeLucia, Moore, Hanna, Rivas, and Sibbitt.

Motion to opening the voting session was made by Juan Rivas; second by Joseph Hanna. . Motion passed with all in favor: Messrs. DeLucia, Moore, Hanna, Rivas, and Sibbitt.

Motion to approve 21-03 by Juan Rivas, per plan submitted, as there is a clear demonstration of sufficient space; Joseph Hanna seconded. Motion passed with all in favor: Messrs. DeLucia, Moore, Hanna, Rivas, and Sibbitt.

OLD BUSINESS: None
NEW BUSINESS: None
CORRESPONDENCE: None
OTHER MATTERS: None

ADJOURNMENT:

Motion to adjourn was made by Juan Rivas; seconded by Michael Sibbitt. Motion passed with all in favor: Messrs. DeLucia, Moore, Hanna, Rivas, and Sibbitt. Meeting adjourned at 8:15 p.m.

Respectfully submitted,

Mary S. Larkin
Recording Secretary